



# FALLON PAIUTE-SHOSHONE TRIBE

---

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
NATIVE AMERICAN GRAVES PROTECTION  
AND  
REPATRIATION REVIEW COMMITTEE  
SANTA FE, NEW MEXICO**

**46<sup>TH</sup> MEETING**

**MAY 9-10, 2012**

**TESTIMONY OF**

**ALVIN MOYLE**

**TRIBAL CHAIRMAN**

**TRIBAL NAGPRA REPRESENTATIVE**

**JACQUELINE ALLEN**

**TRIBAL COUNCIL PERSON**

**SUBJECT**

**REQUEST FOR THE REPATRIATION**

**OF THE**

**SPIRIT CAVE ANCESTOR**

## INTRODUCTION

### RE: The Spirit Cave Man

C.F.R. Title 43, Part 10, subsection 10.11 Disposition of culturally unidentifiable human remains.

I am Alvin Moyle, Chairman of the Fallon Paiute Shoshone Tribe, with me is Councilwoman Jacqueline Allen. I would like to respectfully thank the NAGPRA Review Committee for this opportunity to present our concerns for the Spirit Cave Ancestors' repatriation.

That being said I would like to begin with our presentation:

The date was August 11, 1940, the Nevada State Parks commission had hired archaeologists Sidney M. and Georgia Wheeler to investigate a score of caves located six miles south of the Fallon Paiute Shoshone Reservation in Churchill County, Fallon, Nevada. On that day the Wheelers decided to check a cave that they had seen many times, but had not explored. That cave has become known as the Spirit Cave in the scientific society and to others, as well. As a result of their exploration they discovered two burials which would date back to the early Holocene period. One of the burials revealed a person that was mummified and very old. This person would become known to the society we live in as the Spirit Cave Man. In reference to how old this person might be would not be known until 1994, when two dating projects were undertaken by others whom study pre-history. As a result of the dating study, the two burials that were unearthed by the husband and wife team found the remains to be over 9,000 years old.

With reference to papers written by Mr. Donald R. Tuohy and Amy Dansie, regarding Holocene burial localities, this was not the first time an aboriginal burial in the Great Basin dated in excess of 9,000 years. A study conducted by L.S. Cressman's radiocarbon-dated sagebrush fiber sandals from Ft. Rock Cave in the northern Great Basin in Oregon dated just over 9,000 years at  $9,052 \pm 350$ . Quoting from the Donald R. Tuohy and Amy Dansie report they say "we had a mummy with hair on his head. At about 9,415 years old, the mummy turned out to be the oldest in North America. He was excavated in the Grimes Point foothills near Fallon, Nevada, in 1940 by Sydney M. and Georgia Wheeler."

Quoting from the Amy Dansie report of the Early Holocene Burials in Nevada they say, "Although, we have known for years that human occupation started in the Great Basin before 11,000 years ago (Orr 1974:50; Hattori 1982:13), possibly even 12,000 (Bryan 1974), human bones known to be older than 8,000 years have been found."

In reference to other studies, the findings of the Spirit Cave included artifacts, funerary objects and other items known as textiles were studied. The study was conducted by Catherine Fowler and Eugene Hattori, of the Nevada State Museum. At the conclusion of their study I am of the understanding that they have determined the textiles to be Vietnamese.

At the time of this writing I have not had the opportunity to review their study, but I do have a question, was their determination based on a comparison of a 9,415+25 years textile in Vietnam?

As I continue to review this specific case I have found that (18) different scientists have conducted a study or developed an analysis of the Spirit Cave ancestor, the artifacts and the funerary objects also taken to the Nevada State Museum, for their stockpile of collections.

In addition to the (18) scientists' papers I find in the Nevada Historical Society's Spring of 1997 Quarterly Report, that other scientists' work has been used to further reference the Spirit Cave ancestor and the funerary objects unearthed on August 11, 1940. I also find in the writing that a great amount of pre-history is based on theory. As a result of the theory determinations of evolution I, Alvin Moyle, Tribal Chairman and Councilwoman Jacqueline Allen, ask that the Bureau of Land Management (BLM) consult with our people, as soon as possible, to resolve this issue of who has the right to possess a person or persons who have gone onto the spirit world.

## **OVERVIEW**

As some of you may recall the Fallon Paiute Shoshone Tribe of Fallon, Nevada (a Federally Recognized Tribe) had testified before the NAGPRA Review Committee in 1998, to request the repatriation of the human remains that were taken out of a cave, a cave now known as the Spirit Cave in Churchill County, Nevada. Prior to 1998 and after, the Fallon Paiute Shoshone Tribe has had the opportunity to meet with BLM on a few occasions to discuss the human remains and to further request the repatriation of the ancestor. The discussions have become an issue as to who has the right to possession of human remains that are radiocarbon dated to be approximate 9,460 + 60 years old. In addition to the human remains being taken from the cave, the Fallon Paiute Shoshone Tribe has a serious concern for the associated funerary objects and artifacts that were also collected and turned over to the Nevada State Museum for their stock pile of Native American collections and artifacts.

On March 14 & 15, 2012 as Chairman of the Fallon Paiute Shoshone Tribe I attended a National Park Service, National Park Service Intermountain Region, Native American Graves Protection and Repatriation Act (NAGPRA) Multi-Park culturally unidentifiable inventory, Tribal Consultation meeting. I found this meeting very informative in reference to the Disposition of culturally unidentifiable human remains.

I have reviewed the agenda which noted the:

- (1) Code of Federal Regulations.
- (2) Title 43. Public Lands: Interior.
- (3) Subtitle A. Office of the Secretary of the Interior.
- (4) Part 10. Native American Graves Protection and Repatriation Regulations (Refs & Annos).
- (5) Subpart C. Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony in Museums and Federal Collections.
- (6) 43 C.F.R. Subsection 10.11, which became effective May 14, 2010.
- (7) Subsection 10.11 Disposition of culturally unidentifiable human remains, 43 C.F.R. Subsection 10.11

With reference to: **Subsection 10.11 Disposition of culturally unidentifiable human remains, and subsection (2) (i) and (2) (ii).**

- (a) *General.* This section implements section 8(c)(5) of the Act and applies to human remains previously determined to be Native American under Subsection 10.9, but for which no lineal descendant or culturally affiliated Indian tribe or Native Hawaiian organization has been identified.
- (b) *Consultation.* (1) The museum of Federal agency official must initiate consultation regarding the disposition of culturally unidentifiable human remains and associated funerary objects:



- (b)(i) Within 90 days of receiving a request from an Indian tribe or Native Hawaiian organization to transfer control of culturally unidentifiable human remains and associated funerary objects.

**ACKNOWLEDGE:**

- (2)(i) From whose tribal lands, at the time of the removal, the human remains and associated funerary objects were removed; and
- (ii) From whose aboriginal lands the human remains and associated funerary objects were removed. **Aboriginal** occupation may be recognized by a **final judgment of the Indian Claims Commission** or the United States Court of Claims, or a treaty, Act of Congress, or Executive Order.

**In reference to the aboriginal lands as mentioned above, subsection (2) (i) (ii) Ms. Allen and I have brought maps for this committee's review which will certify the aboriginal lands of the Fallon Paiute Shoshone Tribe, also the geographic area in the State of Nevada.**

**CLOSING**

As Chairman of the Fallon Paiute Shoshone Tribe I would like to request the support of this NAGPRA Review Committee regarding the repatriation of the Spirit Cave ancestor. It has been since 1994 that we began and made it well known of our concerns with the human remains that should be returned to the lands of which he was buried.

I will again state to the federal officials who state that they have a right to the possession of our ancestor; he does not belong on a shelf in a museum, he does not need to undergo any further study, he does not need to continue being a specimen, he has walked through his circle in life, he needs to come home.



# FALLON PAIUTE-SHOSHONE TRIBE

---

April 23, 2012

J. Paul Loether, Chief  
National Register National Historic Landmarks Program  
US Department of the Interior, National Park Service  
1849 C Street, NW  
Washington DC 20240

Subject: Authorized Tribal Representative

Dear Mr. Loether:

The Fallon Business Council, the Governing Body of the Fallon Paiute-Shoshone Tribe, appointed Chairman Alvin Moyle as the Authorized Tribal Representative for the Tribe. The Action was taken at the Regular Council Meeting of April 10, 2012.

We have every confidence in Mr. Moyle's knowledge and expertise as a representative of the Tribe in cultural matters. Please let me know if I can be of further assistance. My office number is 775.423.6075.

Sincerely,

A handwritten signature in blue ink that reads "Laura Nihoa". The signature is fluid and cursive.

Laura Nihoa, Secretary  
Fallon Business Council

cc: File







## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Nevada State Office  
1340 Financial Boulevard  
Reno, Nevada 89502-7147  
<http://www.blm.gov/nv>

APR 30 2012



In Reply Refer To:  
8160 (NV933)

Chairman Alvin Moyle  
Fallon Paiute-Shoshone Tribe  
565 Rio Vista Drive  
Fallon, Nevada 89406

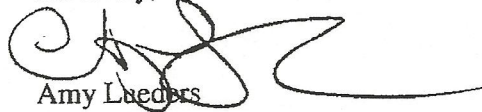
Dear Chairman Moyle:

In your letter dated April 6, 2012, you requested formal consultation pursuant to 43 Code of Federal Regulations (CFR) 10.11, Disposition of Culturally Unidentifiable Human Remains, in relation to human remains removed from a cave in the Grimes Point area about 1940. You also requested to discuss the issue of the aboriginal lands from which the remains were removed.

I believe you were referring to the Spirit Cave human remains. In November 2011, the Bureau of Land Management (BLM) Nevada responded to a request from Dr. Rosita Worl, Chair, Native American Graves Protection and Repatriation Act (NAGPRA) Review Committee, to provide a status report on the Spirit Cave remains and their handling under the NAGPRA. A copy of my letter to Dr. Worl is attached for reference. The situation remains as described last November; that is, the BLM continues to seek advice from its legal counsel to determine whether its original decision is the most correct finding available. This will also include consideration of the regulations at 43CFR10.11 and their applicability to the Spirit Cave remains.

Until the BLM completes the response to the U.S. District Court of Nevada Case Number: 03:04-cv-00466-LRH-RAM, we are limited in terms of what we can address in the course of consultation. The BLM believes your request allows us to continue the consultation process which has been occurring throughout the NAGPRA process for the Spirit Cave remains. If you would like to meet and discuss these issues further, please contact my staff at (775) 861-6590 to schedule.

Sincerely,

  
Amy Lueders  
State Director

Attachment